

REMARKS

This is a full and timely response to the non-final Office Action of January 31, 2008. Reexamination, reconsideration, and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this First Response, claims 1-5, 8-14, 17-23, and 25-35 are pending in this application. Claims 1, 9, 10, 17, 18, 22, 23, and 26-30 are directly amended herein. Furthermore, claims 6, 7, 15, 16, and 24 are canceled, and claims 31-35 are newly added. It is believed that the foregoing amendments add no new matter to the present application.

Response to §112 Rejections

Claims 10 and 26 presently stand rejected under 35 U.S.C. §112, second paragraph, as allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 10 and 26 have been amended herein thereby mooting the rejections of these claims under 35 U.S.C. §112, second paragraph. Accordingly, Applicants respectfully request that the rejections of claims 10 and 26 under 35 U.S.C. §112, second paragraph, be withdrawn.

Response to §102 Rejections

A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim. See, e.g., *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

Claim 18

Claim 18 presently stands rejected under 35 U.S.C. §102 as allegedly being anticipated by *Hofmann* (U.S. Patent No. 6,418,372). Claim 18 reads as follows:

18. A communication method, comprising the steps of:
providing a transceiver;
transmitting, to the transceiver, data indicating a proximity of the transceiver relative to a feeder distribution interface (FDI) of a telecommunication network; and
controlling a configuration of a physical layer of the transceiver based on the data such that a transmit power level or a bandwidth of the transceiver is based on the proximity indicated by the data. (Emphasis added).

Applicants respectfully assert that *Hofmann* fails to disclose at least the feature of claim 18 highlighted hereinabove. Thus, the 35 U.S.C. §102 rejection of claim 18 is improper.

In this regard, it is alleged in the Office Action that *Hofmann* discloses “controlling a physical layer of the transceiver (i.e. physical layer compliant) based on the location indication data to locate specific transceiver.” *Hofmann* does disclose that the transceivers of indicator 20 and the portable layer 30 are “IrDA physical layer compliant,” but *Hofmann* fails to disclose that any such transceivers is made to be “IrDA physical layer compliant” by controlling the configuration of the transceiver’s physical layer based on data indicative of the transceiver’s proximity relative to a feeder distribution interface of a telecommunication network. Indeed, *Hofmann* fails to suggest that the configuration of a transceiver’s physical layer is based in any way on such data. Accordingly, *Hofmann* fails to disclose at least “controlling a configuration of a physical layer of the transceiver based on the data such that a transmit power level or a bandwidth of the transceiver is based on the proximity indicated by the data,” as recited by pending claim 18.

For at least the above reasons, Applicants respectfully assert that the *Hofmann* fails to disclose each feature of claim 18, as amended. Thus, the 35 U.S.C. §102 rejection of claim 18 should be withdrawn.

Claims 19-23, 25, and 35

Claims 19-21 and 23 presently stand rejected in the Office Action under 35 U.S.C. §102 as allegedly being anticipated by *Hofmann*. In addition, claims 22 and 25 presently stand rejected in the Office Action under 35 U.S.C. §103 as allegedly being unpatentable over *Hofmann* in view of *Tran* (U.S. Patent Pub. No. 20020019954 A1). Furthermore, claim 35 has been newly added via the amendments set forth herein. Applicants submit that the pending dependent claims 19-23, 25, and 35 contain all features of their respective independent claim 18. Since claim 18 should be allowed, as argued hereinabove, pending dependent claims 19-23, 25, and 35 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Response to §103 Rejections

In order for a claim to be properly rejected under 35 U.S.C. §103, the combined teachings of the prior art references must suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In Re Dow Chemical Co.*, 837 F.2d 469, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 642 F.2d 413, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981). In addition, "(t)he PTO has the burden under section 103 to establish a *prima facie* case of obviousness. " *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988).

Claim 1

Claim 1 presently stands rejected under 35 U.S.C. §103 as purportedly being unpatentable over *Hofmann*. Claim 1 reads as follows:

1. A communication system, comprising:
a location indicator configured to provide an indication of whether a plurality of transceivers residing at a premise are located at an intermediate terminal of a telecommunication network; and
logic configured to control a configuration of a physical layer of each of the transceivers based on the indication such that, for each of the transceivers, a transmit power level or a bandwidth is based on whether the indication indicates that the plurality of transceivers are located at the intermediate terminal. (Emphasis added).

Applicants respectfully assert that *Hofmann* fails to suggest at least the features of pending claim 1 highlighted hereinabove. Accordingly, the 35 U.S.C. §103 rejection of claim 1, as amended, is improper.

In this regard, it is alleged in the Office Action that:

“Regarding claim 1, Hofmann teaches a communication system comprising a portable device (30) having a transceiver coupled to a location indicator (20), as shown in Figs 2A, dB, to locate the transceiver (i.e. portable device) [col. 4, lines 9-38; col. 2, lines 42-48; col. 1, lines 44-57; Fig. 4; col. 6, lines 13-56]; it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to apply this methodology to a plurality of portable devices in order to cover a larger area of navigation for the portable devices located at different physical locations at any point in time [Hofmann; col. 5, lines 30-40].”

Even if it is assumed for the sake of argument that it would have been obvious to apply the alleged methodology of *Hofmann* to a plurality of portable devices, as alleged in Office Action, *Hofmann* nevertheless fails to suggest each feature of pending claim 1. In this regard, *Hofmann* discloses that the transceivers of indicator 20 and the portable layer 30 are “IrDA physical layer compliant,” but *Hofmann* fails to suggest that any such transceivers are made to be “IrDA physical layer compliant” by controlling the configuration of the transceiver’s physical layer based on a signal indicative of whether the transceiver is located at an intermediate terminal of a

telecommunication network. Indeed, *Hofmann* fails to suggest that the configuration of a transceiver's physical layer is based in any way on such a signal. Accordingly, *Hofmann* fails to suggest at least "logic configured to control a configuration of a physical layer of each of the transceivers based on the indication such that, for each of the transceivers, a transmit power level or a bandwidth is based on whether the indication indicates that the plurality of transceivers are located at the intermediate terminal," as recited by claim 1.

For at least the above reasons, Applicants respectfully assert that the *Hofmann* fails to suggest each feature of claim 1, as amended. Thus, the 35 U.S.C. §103 rejection of claim 1 should be withdrawn.

Claims 2-5, 8, 9, 31, and 32

Claim 2 presently stands rejected in the Office Action under 35 U.S.C. §103 as allegedly being unpatentable over *Hofmann* in view of *Kerstein* (U.S. Patent No. 6,011,799). In addition, claims 3-5, 8, and 9 presently stand rejected in the Office Action under 35 U.S.C. §103 as allegedly being unpatentable over *Hofmann*. Furthermore, claims 31 and 32 have been newly added via the amendments set forth herein. Applicants submit that the pending dependent claims 2-5, 8, 9, 31, and 32 contain all features of their respective independent claim 1. Since claim 1 should be allowed, as argued hereinabove, pending dependent claims 2-5, 8, 9, 31, and 32 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Claim 10

Claim 10 presently stands rejected under 35 U.S.C. §103 as purportedly being unpatentable over *Hofmann*. Claim 10 reads as follows:

10. A communication system, comprising:
a first transceiver residing at a premise, the first transceiver coupled to a feeder distribution interface (FDI) of a telecommunication network and configured to communicate with a remote transceiver through the FDI based on a set of operational control settings; and
a location indicator configured to provide an indication of the first transceiver's proximity relative to the FDI,
wherein the first transceiver is further configured to establish its set of operational control settings based on the indication such that a transmit power level or a bandwidth of the first transceiver is based on the indicated proximity. (Emphasis added).

Applicants respectfully assert that *Hofmann* fails to suggest at least the features of pending claim 10 highlighted hereinabove. Accordingly, the 35 U.S.C. §103 rejection of claim 10, as amended, is improper.

In this regard, it is alleged in the Office Action that indicator 20 of *Hofmann* constitutes the "location indicator" recited by claim 10. However, *Hofmann* fails to suggest that the indicator 20 should transmit any signal that is indicative of a transceiver's proximity relative to a feeder distribution interface of a telecommunication network and that a transceiver is configured to receive such a signal and to control a "set of operational control settings," as recited by claim 10. Accordingly, *Hofmann* fails to suggest at least "wherein the first transceiver is further configured to establish its set of operational control settings based on the indication such that a transmit power level or a bandwidth of the first transceiver is based on the indicated proximity," as recited by claim 10.

For at least the above reasons, Applicants respectfully assert that the *Hofmann* fails to suggest each feature of claim 10, as amended. Thus, the 35 U.S.C. §103 rejection of claim 10 should be withdrawn.

Claims 11-14, 33, and 34

Claim 11 presently stands rejected in the Office Action under 35 U.S.C. §103 as allegedly being unpatentable over *Hofmann* in view of *Kerstein*. In addition, claims 12-14 presently stand rejected in the Office Action under 35 U.S.C. §103 as allegedly being unpatentable over *Hofmann*. Furthermore, claims 33 and 34 have been newly added via the amendments set forth herein. Applicants submit that the pending dependent claims 11-14, 33, and 34 contain all features of their respective independent claim 10. Since claim 10 should be allowed, as argued hereinabove, pending dependent claims 11-14, 33, and 34 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Claim 17

Claim 17 presently stands rejected under 35 U.S.C. §103 as purportedly being unpatentable over *Hofmann*. Claim 17 reads as follows:

17. A communication system, comprising:
a plurality of transceivers residing at a premise; and
means for indicating whether the plurality of transceivers are located at an intermediate terminal of a telecommunication network, the indicating means configured to provide, to each of the plurality of transceivers, an indication of whether the plurality of transceivers are located at the intermediate terminal,
wherein each of the plurality of transceivers comprises a means for controlling the respective transceiver based on the indication such that a transmit power level or bandwidth of the respective transceiver is based on whether the indication indicates that the plurality of transceivers are located at the intermediate terminal. (Emphasis added).

For at least reasons similar to those set forth above in the arguments for allowance of claim 10, Applicants respectfully assert that *Hofmann* fails to suggest at least the features of claim 17 highlighted above. Thus, the 35 U.S.C. §103 rejection of pending claim 17 should be withdrawn.

Claim 26

Claim 26 presently stands rejected under 35 U.S.C. §103 as purportedly being unpatentable over *Hofmann*. Claim 26 reads as follows:

26. A communication method, comprising the steps of:
transmitting a signal from a first transceiver to a feeder distribution interface (FDI) of a telecommunication network;
indicating a proximity of the first transceiver relative to the FDI; and
controlling a configuration of a physical layer of the first transceiver based on the proximity indicated by the indicating step such that an amount of crosstalk interfering with signals transmitted by a second transceiver at a central office of the telecommunication network is reduced. (Emphasis added).

Applicants respectfully assert that *Hofmann* fails to suggest at least the features of pending claim 26 highlighted hereinabove. Accordingly, the 35 U.S.C. §103 rejection of claim 26, as amended, is improper.

In this regard, *Hofmann* discloses that the transceivers of indicator 20 and the portable layer 30 are “IrDA physical layer compliant,” but *Hofmann* fails to suggest that any such transceivers are made to be “IrDA physical layer compliant” by controlling the configuration of the transceiver’s physical layer based on an indication of the transceiver’s proximity relative to a feeder distribution interface of a telecommunication network. Indeed, *Hofmann* fails to suggest that the configuration of a transceiver’s physical layer is based in any way on such an indication. Accordingly, *Hofmann* fails to suggest at least “controlling a configuration of a physical layer of the first transceiver based on the proximity indicated by the indicating step such that an amount of crosstalk interfering with signals transmitted by a second transceiver at a central office of the telecommunication network is reduced,” as recited by claim 26.

For at least the above reasons, Applicants respectfully assert that the *Hofmann* fails to suggest each feature of claim 26, as amended. Thus, the 35 U.S.C. §103 rejection of claim 26 should be withdrawn.

Claims 27-30

Claims 27-30 presently stand rejected in the Office Action under 35 U.S.C. §103 as allegedly being unpatentable over *Hofmann* in view of *Tran*. Applicants submit that the pending dependent claims 27-30 contain all features of their respective independent claim 26. Since claim 26 should be allowed, as argued hereinabove, pending dependent claims 27-30 should be allowed as a matter of law for at least this reason. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

CONCLUSION

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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